

**PATRICE A. MISSUD** (Ca. SBN 219614)  
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PLAINTIFF in pro per, and  
Attorney for Julie D. Missud

E-filing

**FILED**  
07 JUN 21 AM 10:11  
EDWARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT  
OF CALIFORNIA, SAN FRANCISCO DIVISION  
UNLIMITED CIVIL JURISDICTION

**PATRICE A. MISSUD,**  
**JULIE D. MISSUD**

Case No. C 07-2625 JL

Plaintiffs

**REGISTRATION OF WAIVER OF SERVICE  
OF SUMMONS FORMS UNDER FEDERAL  
RULES OF CIVIL PROCEDURE RULE 4**

vs.

**UNLIMITED**

**D. R. HORTON, INC.;**  
**DHI MORTGAGE COMPANY, LTD, LP.;**  
**DONALD HORTON; DONALD TOMNITZ;**  
**MICHAEL MASON; DANIEL CALLIHAN;**  
**ANNIE SCHANKIN, JAMES FRASURE;**  
**DOES 1-200**

Defendants

I, Patrick Missud, declare as follows:

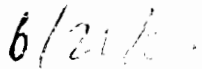
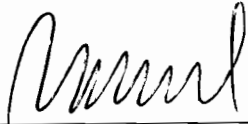
1. I am an attorney at law, duly licensed to practice before all courts of the State of California, and am pro per counsel in the above entitled action. I have personal knowledge of the matters set forth herein. If called upon as a witness to testify as to the

truth of these matters, I could and would do so competently.

2. The attached Waiver of Service of Summons forms are originals or faxed copies sent via overnight delivery by defense counsel and received by me on or about the week of June 17<sup>th</sup>, 2007.

3. All defendants have waived service under FRCP Rule 4 with the exception of James Frasure, Annie Schankin and Does 1-200.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in San Francisco, California.



Patrick Missud

Date

\*AO 399 (Rev. 10/95)

Clear Form

## WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, DONALD TOMNITZ, acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of PATRICE A MUSSUD vs DR HORTON, et al  
(CAPTION OF ACTION)

which is case number C 07 2625 SL in the United States District Court  
(DOCKET NUMBER)

for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after

5-29-07

(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

6/8/07  
(DATE)

[Signature]  
(SIGNATURE)

Printed/Typed Name: Donald Tomnitz

As \_\_\_\_\_ of \_\_\_\_\_  
(TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

AO 399 (Rev. 10/95)

Clear Form

## WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, D.R. HORTON, INC., acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of PATRICE A. MUSSUD vs DR HORTON, et al  
(CAPTION OF ACTION)

which is case number C 07 2625 SL in the United States District Court  
(DOCKET NUMBER)

for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after

5-29-07  
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

6/8/07 (DATE) [Signature] (SIGNATURE)

Printed/Typed Name: DAVID J. MORICE

As VICE PRESIDENT of D.R. HORTON, INC.  
(TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

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It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

AO 399 (Rev. 10/95)

Clear Form

## WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, DHI MORTGAGE COMPANY LTD. L.P., acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of PATRICE A. MUSSUD vs DR HORTON, et al  
(CAPTION OF ACTION)

which is case number C 07 2625 SL in the United States District Court  
(DOCKET NUMBER)

for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after

5-29-07  
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

6/8/07  
(DATE)

[Signature]  
(SIGNATURE)

Printed/Typed Name: DAVID T. MORICE

As ASST. SECRETARY of DHI MORTGAGE COMPANY, GP, INC.  
(TITLE) (CORPORATE DEFENDANT)  
GENERAL PARTNER OF DHI MORTGAGE COMPANY LTD. L.P.

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.



DAO 399 (Rev. 10/95)

Clear Form

## WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, DONALD HORTON, acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of PATRICK A. MUSSO VS DR HORTON, et al  
(CAPTION OF ACTION)  
which is case number C 07 2625 3L in the United States District Court  
(DOCKET NUMBER)  
for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after

5-29-07

(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

June 12, 2007  
(DATE)

D. R. Horton  
(SIGNATURE)

Printed/Typed Name:

Donald R. Horton

As

(TITLE)

of

(CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

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A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

FD-309 (Rev. 10-95)

Clear Form

## WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Michael Mason, acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of PATRICE A. MUSSO vs DR HORTON, et al  
(CAPTION OF ACTION)  
which is case number C 07 2625 3L in the United States District Court  
(DOCKET NUMBER)  
for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after

5-29-07  
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

06/15/2007 [Signature]  
(DATE) (SIGNATURE)

Printed/Typed Name: \_\_\_\_\_

As \_\_\_\_\_ of \_\_\_\_\_  
(TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

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A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

\*AO 100 (Rev 10/95)

Clear Form

## WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Daniel D. Pallihay, acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of PATRICE A MUSSUD vs DR HORTON, et al  
(CAPTION OF ACTION)

which is case number C 07 2625 SL in the United States District Court  
(DOCKET NUMBER)

for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after

5-29-07  
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

6/15/2007  
(DATE)

(SIGNATURE)

Printed/Typed Name: Daniel D. Pallihay

As \_\_\_\_\_ of \_\_\_\_\_  
(TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

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A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.